

CIVIL COVER SHEET

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The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

Alex Mellow and Polina Mellow (h/w)

(b) County of Residence of First Listed Plaintiff Camden County, NJ
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)

David A. Shafie, Esquire
Hoffman, Sternberg, Karpf & Lynch, LLC
737 Second Street Pike, Southampton, PA 18966 - 215-953-8955

DEFENDANTS

Serguei Bibikov and HL Motor Group, Inc. and See attached

County of Residence of First Listed Defendant Canada
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

Donald M. Davis, Esquire - Margolis Edelstein
170 S. Independence Mall W, The Curtis Center, Suite 400E
Phila. PA 19106 - 215-931-5813

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff
☐ 2 U.S. Government Defendant
☐ 3 Federal Question (U.S. Government Not a Party)
☒ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | PTF | DEF | | PTF | DEF |
|---|---------------------------------------|---------------------------------------|---|----------------------------|---------------------------------------|
| Citizen of This State | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business in This State | <input type="checkbox"/> 4 | <input checked="" type="checkbox"/> 4 |
| Citizen of Another State | <input checked="" type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business in Another State | <input type="checkbox"/> 5 | <input checked="" type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input checked="" type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input checked="" type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES	
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input checked="" type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice	PERSONAL INJURY <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 835 Patent - Abbreviated New Drug Application <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 376 Qui Tam (31 USC 3729(a)) <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 485 Telephone Consumer Protection Act <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education	PRISONER PETITIONS Habeas Corpus: <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty Other: <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement			

V. ORIGIN (Place an "X" in One Box Only)

- ☐ 1 Original Proceeding
☒ 2 Removed from State Court
☐ 3 Remanded from Appellate Court
☐ 4 Reinstated or Reopened
☐ 5 Transferred from Another District (specify)
☐ 6 Multidistrict Litigation - Transfer
☐ 8 Multidistrict Litigation - Direct File

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):
28 U.S.C. Section 1331

Brief description of cause:
Motor vehicle accident

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.

DEMAND \$

CHECK YES only if demanded in complaint:

JURY DEMAND: ☒ Yes ☐ No

VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE

DOCKET NUMBER

DATE

1/22/20

SIGNATURE OF ATTORNEY OF RECORD

FOR OFFICE USE ONLY

RECEIPT #

AMOUNT

APPLYING IFP

JUDGE

MAG. JUDGE

JAN 22 2020

ATTACHMENT CIVIL COVER SHEET

Defendants

County of Residents and Country of Residents of Defendants:

Serguei Bibikov

Toronto, ON, Canada M3H2X7

Element Fleet Corporation

Chester County, Pennsylvania

Element Fleet Corporation Management Corp.

Baltimore County, Maryland

ECN Financial LLC formerly doing business
As Element Financial Corp.

Montgomery County, PA

Element Financial Corporatino

Toronto, ON, Canada M5J2S1

HL Motor Group, Inc.

Concord, ON, Canada L4K1N8

Highlight Motor Freight USA, Inc.

Morris County, New Jersey (fraudulently joined)
see Affidavit
Ex 2

DESIGNATION FORM

(to be used by counsel or pro se plaintiff to indicate the category of the case for the purpose of assignment to the appropriate calendar)

Address of Plaintiff: 209 Winchester Court, Voorhees, NJ 08043
 Address of Defendant: 148 Faywood Boulevard, Toronto, ON, Canada M3H2X7
 Place of Accident, Incident or Transaction: I-476 PA Turnpike Keyeser Avenue Interchange Lacawanna Cty

RELATED CASE, IF ANY:

Case Number: _____ Judge: _____ Date Terminated: _____

Civil cases are deemed related when Yes is answered to any of the following questions:

- | | | |
|--|------------------------------|--|
| 1. Is this case related to property included in an earlier numbered suit pending or within one year previously terminated action in this court? | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> |
| 2. Does this case involve the same issue of fact or grow out of the same transaction as a prior suit pending or within one year previously terminated action in this court? | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> |
| 3. Does this case involve the validity or infringement of a patent already in suit or any earlier numbered case pending or within one year previously terminated action of this court? | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> |
| 4. Is this case a second or successive habeas corpus, social security appeal, or pro se civil rights case filed by the same individual? | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> |

I certify that, to my knowledge, the within case ☐ is / ☒ is not related to any case now pending or within one year previously terminated action in this court except as noted above.

DATE: 1/22/20 _____
 Attorney-at-Law / Pro Se Plaintiff _____
 Attorney I.D. # (if applicable) 27546

CIVIL: (Place a ✓ in one category only)

A. Federal Question Cases:

- ☐ 1. Indemnity Contract, Marine Contract, and All Other Contracts
- ☐ 2. FELA
- ☐ 3. Jones Act-Personal Injury
- ☐ 4. Antitrust
- ☐ 5. Patent
- ☐ 6. Labor-Management Relations
- ☐ 7. Civil Rights
- ☐ 8. Habeas Corpus
- ☐ 9. Securities Act(s) Cases
- ☐ 10. Social Security Review Cases
- ☐ 11. All other Federal Question Cases

(Please specify): _____

B. Diversity Jurisdiction Cases:

- ☐ 1. Insurance Contract and Other Contracts
- ☐ 2. Airplane Personal Injury
- ☐ 3. Assault, Defamation
- ☐ 4. Marine Personal Injury
- ☒ 5. Motor Vehicle Personal Injury
- ☐ 6. Other Personal Injury (Please specify): _____
- ☐ 7. Products Liability
- ☐ 8. Products Liability - Asbestos
- ☐ 9. All other Diversity Cases

(Please specify): _____

ARBITRATION CERTIFICATION

(The effect of this certification is to remove the case from eligibility for arbitration.)

I, Donald M. Davis, Esquire, counsel of record or pro se plaintiff, do hereby certify:

☒ Pursuant to Local Civil Rule 53.2, § 3(c) (2), that to the best of my knowledge and belief, the damages recoverable in this civil action case exceed the sum of \$150,000.00 exclusive of interest and costs:

☐ Relief other than monetary damages is sought.

DATE: 1/22/20 _____
 Attorney-at-Law / Pro Se Plaintiff _____
 Attorney I.D. # (if applicable) 27546

NOTE: A trial de novo will be a trial by jury only if there has been compliance with F.R.C.P. 38.

ATTACHMENT DESIGNATION FORM

Address of Defendants

Sergeui Bibikov
148 Faywood Boulevard
Toronto, ON, Canada M3H2X7

Element Fleet Corporation
1265 Drummmbers Lane
Wayne, PA 19087

Element Fleet Management Corp.
940 Ridgebrook Road
Sparks, MD 21152

ECN Financial LLC formerly doing business
As Element Financial Corp.
655 Business Center Drive, Suite 250
Horsham, PA 19044

Element Financial Corporation
161 Bay Street, Suite 3600
Bx 621
Toronto, ON, Canada M5J2S1

HL Motor Group, Inc.
391 Creditstone Rd.,
Concord, ON, Canada L4K1N8

Highlight Motor Freight USA, Inc.
14 Eastmans Road
Parsippany, NJ 07054

John Doe Employers/Owners 1-5
Present Identities are Unknown to
Plaintiffs

CDJ

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIACASE MANAGEMENT TRACK DESIGNATION FORMAlex Mellow and Polina Mellow,
h/w

v.

Serguei Bibikov, et al

CIVIL ACTION

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NO.

In accordance with the Civil Justice Expense and Delay Reduction Plan of this court, counsel for plaintiff shall complete a Case Management Track Designation Form in all civil cases at the time of filing the complaint and serve a copy on all defendants. (See § 1:03 of the plan set forth on the reverse side of this form.) In the event that a defendant does not agree with the plaintiff regarding said designation, that defendant shall, with its first appearance, submit to the clerk of court and serve on the plaintiff and all other parties, a Case Management Track Designation Form specifying the track to which that defendant believes the case should be assigned.

SELECT ONE OF THE FOLLOWING CASE MANAGEMENT TRACKS:

- (a) Habeas Corpus – Cases brought under 28 U.S.C. § 2241 through § 2255. ()
- (b) Social Security – Cases requesting review of a decision of the Secretary of Health and Human Services denying plaintiff Social Security Benefits. ()
- (c) Arbitration – Cases required to be designated for arbitration under Local Civil Rule 53.2. ()
- (d) Asbestos – Cases involving claims for personal injury or property damage from exposure to asbestos. ()
- (e) Special Management – Cases that do not fall into tracks (a) through (d) that are commonly referred to as complex and that need special or intense management by the court. (See reverse side of this form for a detailed explanation of special management cases.) ()
- (f) Standard Management – Cases that do not fall into any one of the other tracks. (X)

<u>1/22/20</u>	<u>Donald M. Davis</u>	<u>Defts Serguei Bibikov and HL</u>
<u>Date</u>	<u>Attorney-at-law</u>	<u>Motor Group, Inc.</u>
<u>215-931-5813</u>	<u>215-922-1772</u>	<u>Attorney for Defendants</u>
<u>Telephone</u>	<u>FAX Number</u>	<u>ddavis@margolisedelstein.com</u>
		<u>E-Mail Address</u>

JAN 22 2020

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

ALEX MELLOW and POLINA MELLOW, h/w : Civil Action No.:
vs. :
SERGUEI BIBIKOV AND ELEMENT FLEET : Jury Trial Demanded
CORPORATION AND ELEMENT FLEET :
MANAGEMENT CORPORATION AND :
ECN FINANCIAL LLC formerly doing business :
As ELEMENT FINANCIAL CORP. AND :
ELEMENT FINANCIAL CORPORATION AND :
HL MOTOR GROUP, INC. AND :
HIGHLIGHT MOTOR FREIGHT USA, INC. :
AND JOHN DOE EMPLOYERS/OWNERS 1-5 :

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NOTICE OF REMOVAL

Defendants, HL Motor Group, Inc. ("Highlight") and Serguei Bibikov ("Mr. Bibikov"), by their attorneys Margolis Edelstein, pursuant to 28 U.S.C. §§ 1332(a) and 1441(b), hereby removes this action from the Court of Common Pleas, Civil Trial Division, County of Philadelphia, to the United States District Court for the Eastern District of Pennsylvania. As grounds for this removal, defendants state as follows:

1. On December 12, 2019, plaintiff filed a Praecipe to Reinstate Complaint requesting reinstatement of a Complaint initially filed on November 13, 2019 in the Court of Common Pleas, Civil Trial Division, County of Philadelphia, entitled *Alex Mellow and Polina Mellow v. Serguei Bibikov, et al.*, (Case ID 191101599). (See Complaint attached as Exhibit 1).

2. In the Complaint, plaintiffs generally allege that they suffered severe personal injuries resulting from a November 18, 2017 motor vehicle collision in Lackawanna County, Pennsylvania with a "Tractor Unit" operated by Serguei Bibikov and "possessed, owned, operated and/or controlled by" Highlight and Defendant, Highlight Motor Freight USA, Inc. ("Highlight USA"). (*Id.*).

3. Plaintiffs' Complaint generally alleges more than \$50,000.00 in damages, exclusive of costs. (*Id.*).

4. Plaintiffs' counsel has made a settlement demand to defense counsel in excess of \$75,000.00.

5. Moreover, plaintiffs allege that "as a direct result of the carelessness and negligence of the Defendants, as aforesaid, Plaintiff, Alex Mellow, sustained severe and permanent internal and external injuries." (*Id.* at ¶26).

6. Plaintiffs are residents of New Jersey. (*Id.* at 1, ¶1).

7. Mr. Bibikov is a resident of Ontario, Canada. (*Id.* at 1, ¶2).

8. Defendant, Element Fleet Corporation, is a Pennsylvania corporation. (*Id.* at 1, ¶3).

9. Defendant, Element Fleet Management Corp., is a Maryland corporation. (*Id.* at 1, ¶4).

10. Defendant, ECN Financial LLC, is a Delaware corporation. (*Id.* at 1, ¶5).

11. Defendant, Element Financial Corporation, is an Ontario, Canada corporation. (*Id.* at 2, ¶6).

12. Highlight is a corporation located, organized and existing under the laws of Canada. (*Id.* at 2, ¶9 and Affidavit of Kate Savinkova ("Aff.") at ¶1).

13. Highlight USA is alleged to be located in the same state as plaintiffs, New Jersey. (*See* Complaint at 2, ¶10).

14. Other than purporting that the vehicle operated by Mr. Bibikov was "possessed, owned, operated and/or controlled by" Highlight USA, (*See* Complaint at 5, ¶21), plaintiffs make no other allegation of specific wrongdoing committed by Highlight USA. (*See* Complaint).

15. However, on November 18, 2017, while engaged in the activity described in the Complaint in this matter, Serguei Bibikov was an employee of Highlight. (*See* Aff. at ¶6).

16. Moreover, Mr. Bibikov has never been an employee, agent, servant, workman or in any way provided services on behalf of Highlight USA. (*Id.* at ¶7).

17. Furthermore, the “Tractor Unit” operated by Serguei Bibikov at the time of the November 18, 2017 motor vehicle accident described in the Plaintiff’s Complaint, was owned by Defendant, Element Financial Corporation, and leased by that company to Highlight, not Highlight USA. (*Id.* at ¶9).

18. In determining diversity of citizenship, the court must disregard parties fraudulently joined. *Gottlieb v. Westin Hotel*, 990 F.2d 323, 327 (7th Cir. 1993).

19. Here, the citizenship of Highlight USA should be disregard because that entity had no involvement in the underlying acts alleged by plaintiffs. Thus, there is complete diversity between plaintiffs and defendants and the amount in controversy exceeds \$75,000.00 as required by 28 U.S.C. § 1441(b).

20. By reason of the foregoing, this Court has original jurisdiction over this action pursuant to 28 U.S.C. § 1332(a). There is complete diversity of citizenship, and the amount in controversy exceeds \$75,000.00, exclusive of costs. Removal of the state court action to this Court is therefore appropriate under 28 U.S.C. § 1441(b).

21. Removal of this action is timely under 28 U.S.C. § 1446(b) because this Notice of Removal was filed within thirty days after receipt by the defendants, through service or otherwise, of a copy of the pleading, motion, order or other paper from which it may first be ascertained that the case is one which is or has become removable. Moreover, this Notice of Removal was filed within one year after commencement of the action.

22. Pursuant to 28 U.S.C. § 1446(d), contemporaneous with this filing, defendants are serving a copy of this Notice of Removal upon plaintiff and filing a copy with the Clerk of the Court of Common Pleas, Civil Trial Division, County of Philadelphia.

23. Defendants reserve the right to supplement this Notice of Removal and/or to present additional arguments in support of their entitlement to removal.

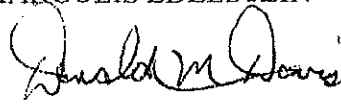
24. Removal is hereby effected without waiver of any challenges that defendants may have to personal jurisdiction, venue or service of process. Further, no admission of fact, law or liability is intended by this Notice of Removal, and all defenses, affirmative defenses and motions are hereby reserved.

WHEREFORE, Defendants, HL Motor Group, Inc. and Serguei Bibikov, hereby give notice of the removal of the above-referenced action now pending in the Court of Common Pleas, Civil Trial Division, County of Philadelphia, to the United States District Court for the Eastern District of Pennsylvania.

Respectfully submitted,

MARGOLIS EDELSTEIN

By:



DONALD M. DAVIS, ESQUIRE

CERTIFICATE OF SERVICE

I hereby certify that on the date shown below, a true and correct copy of the foregoing Notice of Removal and supporting documents was served via U.S. First Class Mail, postage prepaid upon the following on January 22, 2020.

David A. Shafie, Esquire
Hoffman, Sternberg, Karpf & Lynch, LLC
7373 Second Street Pike
Southampton, PA 18966

MARGOLIS EDELSTEIN

By:

A handwritten signature in dark ink, appearing to read "Donald M. Davis", is written over a horizontal line.

DONALD M. DAVIS, ESQUIRE

DAVID A. SHAFIE, ESQUIRE
 HOFFMAN, STERNBERG, KARP & LYNCH, LLC
 737 SECOND STREET PIKE
 SOUTHAMPTON, PA 18966
 (215) 953-8955
 ATTORNEY I.D. NO. 88367

ALEX MELLOW and POLINA MELLOW, h/w
 209 Winchester Court, Voorhees NJ 08043

vs

SERGUEI BIBIKOV, 148 Faywood Boulevard
 Toronto, ON, Canada M3H2X7 and
 ELEMENT FLEET CORPORATION
 1265 Drummers Lane, Wayne, PA 19087 and
 ELEMENT FLEET MANAGEMENT CORP.
 940 Ridgebrook Road, Sparks, MD 21152 and
 ECN FINANCIAL LLC formerly doing business as
 ELEMENT FINANCIAL CORP,
 655 Business Center Drive, Suite 250
 Horsham, PA 19044 and
 ELEMENT FINANCIAL CORPORATION
 161 Bay Street, Suite 3600, Bx 621
 Toronto, ON, Canada M5J2S1 and
 HL MOTOR GROUP, INC., 391 Creditstone Rd,
 Concord, ON, Canada L4K1N8 and
 HIGHLIGHT MOTOR FREIGHT USA, INC.
 14 Eastmans Road, Parsippany, NJ 07054 and
 JOHN DOE EMPLOYERS/OWNERS 1-5,
 Whose Present Identities are Unknown to Plaintiffs

MAJOR CASE
 JURY TRIAL DEMANDED

Filed and Attested by the
 Office of Judicial Records

ATTORNEY FOR PLAINTIFFS
 PHILADELPHIA COUNTY
 COURT OF COMMON PLEAS
 CIVIL TRIAL DIVISION

TERM, 2019

NO.

NOTICE TO DEFEND

NOTICE

You have been sued in court. If you wish to defend against the claims set forth in the following pages, you must take action within twenty (20) days after this complaint and notice are served, by entering a written appearance personally or by attorney and filing in writing with the court your defenses or objections to the claims set forth against you. you are warned that if you fail to do so the case may proceed without you and a judgment may be entered against you by the court without further notice for any money claimed in the complaint or for any other claim or relief requested by the plaintiff. You may lose money or property of other rights important to you.

YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW. THIS OFFICE CAN PROVIDE YOU WITH INFORMATION ABOUT HIRING A LAWYER. IF YOU CANNOT AFFORD TO HIRE A LAWYER, THIS OFFICE MAY BE ABLE TO PROVIDE YOU WITH INFORMATION ABOUT AGENCIES THAT MAY OFFER LEGAL SERVICES TO ELIGIBLE PERSONS AT A REDUCED FEE OR NO FEE.

LAWYER REFERENCE SERVICE
 One Reading Center
 1101 Market Street
 Philadelphia, Pennsylvania 19107
 (215) 238-6333

AVISO

Le han demandado en corte. Si usted desea defender contra las demandas dispuestas en las páginas siguientes, usted debe tomar la acción en el plazo de veinte (20) días después de esta queja y se sirve el aviso, incorporando un aspecto escrito personalmente o y archivando en escribir con la corte sus defensas u objeciones a las demandas dispuestas contra usted el abogado le advierte que que si usted no puede hacer así que el caso puede proceder sin usted y un juicio se puede incorporar contra usted compra la corte sin aviso adicional para cualquier dinero demandado en la queja o para cualquier otra demanda o relevación pedida por el demandante. Usted puede perder el dinero o la característica de otra endereza importante a usted.

USTED DEBE LLEVAR ESTE PAPEL SU ABOGADO INMEDIATAMENTE. SI USTED NO HACE QUE UN ABOGADO VAYA A O LLAME POR TELÉFONO La OFICINA DISPUESTA ABAJO. ESTA OFICINA PUEDE PROVEER DE USTED LA INFORMACIÓN SOBRE EMPLEAR A UN ABOGADO. SI USTED NO PUEDE PERMITIRSE AL HIRE A UN ABOGADO, ESTA OFICINA PUEDE PODER PROVEER DE USTED LA INFORMACIÓN SOBRE LAS AGENCIAS QUE LOS SERVICIOS JURÍDICOS DE LA OFERTA DE MAYO A LAS PERSONAS ELEGIBLES EN UN HONORARIO REDUCIDO O NINGÚN HONORARIO

SERVICIO DE REFERENCIA LEGAL
 One Reading Center
 1101 Market Street
 Philadelphia, Pennsylvania 19107
 Teléfono (215) 238-6333

EXHIBIT

Case ID: 191101595

DAVID A. SHAFIE, ESQUIRE
HOFFMAN, STERNBERG, KARP & LYNCH, LLC
737 SECOND STREET PIKE
SOUTHAMPTON, PA 18966
(215) 953-8955
ATTORNEY I.D. NO. 88367

MAJOR CASE
JURY TRIAL DEMANDED

ATTORNEY FOR PLAINTIFFS

ALEX MELLOW and POLINA MELLOW
(h/w)
209 Winchester Court
Voorhees, NJ 08043

PHILADELPHIA COUNTY

COURT OF COMMON PLEAS
CIVIL TRIAL DIVISION

V.

TERM

SERGUEI BIBIKOV
148 Faywood Boulevard
Toronto, ON, Canada M3H2X7

NO.

And

ELEMENT FLEET CORPORATION
1265 Drummers Lane
Wayne, PA 19087

And

ELEMENT FLEET MANAGEMENT CORP.
940 Ridgebrook Road
Sparks, MD 21152

And

ECN FINANCIAL LLC formerly doing business as
ELEMENT FINANCIAL CORP
655 Business Center Drive, Suite 250
Horsham, PA 19044

And

ELEMENT FINANCIAL CORPORATION
161 Bay Street, Suite 3600, Bx 621
Toronto, ON, Canada M5J2S1

And

HL MOTOR GROUP, INC.

391 Creditstone Road
Concord, ON, Canada L4K1N8

And

HIGHLIGHT MOTOR FREIGHT USA, INC.
14 Eastmans Road
Parsippany, NJ 07054

And

JOHN DOE EMPLOYERS/OWNERS 1-5,
Whose Present Identities are Unknown
to Plaintiffs

CIVIL ACTION

1. Plaintiffs, ALEX MELLOW and POLINA MELLOW, are married, adult individuals who currently reside at 209 Winchester Court, Vorhees, NJ 08043.

2. Defendant, SERGUEI BIBOKOV, is an adult individual who resides at 148 Faywood Boulevard, Toronto, ON, Canada M3H2X7.

3. Defendant, ELEMENT FLEET CORPORATION, is believed to be a corporation or other legal entity doing business in the Commonwealth of Pennsylvania with its address at 1265 Drummers Lane, Wayne, PA 19087.

4. Defendant, ELEMENT FLEET MANAGEMENT CORP. is believed to be a corporation or other legal entity doing business in the Commonwealth of Pennsylvania with its address at 940 Ridgebrook Road, Sparks, MD 21152.

5. Defendant, ECN FINANCIAL LLC, formerly known as ELEMENT FINANCIAL CORP., is believed to be Delaware corporation or other legal entity, doing business in Montgomery County, Pennsylvania with its address of 655 Business Center Drive, Suite 250, Horsham, PA 19044.

6. ELEMENT FINANCIAL CORPORATION is believed to be a corporation or other legal entity doing business in the Commonwealth of Pennsylvania with its address at 161 Bay Street, Suite 3600, Box 621, Toronto, ON, Canada M5J2S1.

7. At all times material hereto, Defendants, ELEMENT FLEET CORPORATION, ELEMENT FLEET MANAGEMENT CORP., ECN FINANCIAL LLC formerly doing business as ELEMENT FINANCIAL CORP and ELEMENT FINANCIAL CORPORATION acted or failed to act individually or through its agents, servants, workmen and/or employees who were then and there acting within the course and scope of their employment with said Defendant and in furtherance of said Defendant's business.

8. In the alternative, at all times material hereto, Defendants ELEMENT FLEET CORPORATION, ELEMENT FLEET MANAGEMENT CORP., ECN FINANCIAL LLC formerly doing business as ELEMENT FINANCIAL CORP and ELEMENT FINANCIAL CORPORATION (hereafter "ELEMENT DEFENDANTS") acted or failed to act as an agent, servant, workman and/or employee of all other Co-Defendants, who was then and there acting within the course and scope of its employment with said Co-Defendant(s) and in furtherance of the business of said Co-Defendant(s).

9. Defendant, HL MOTOR GROUP, INC. is a corporation or other legal entity authorized to do business in Pennsylvania with its address at 391 Creditstone Road, Concord, ON, Canada, L4K1N8.

10. Defendant, HIGHLIGHT MOTOR FREIGHT USA, INC. is a corporation authorized to do business in Pennsylvania with its address at 14 Eastmans Road, Parsippany, NJ 07054.

11. Defendants, JOHN DOE OWNERS/EMPLOYERS 1-5 are fictitious individuals

and or businesses whose names are unknown to Plaintiffs at this time despite a reasonable search that either owned, possessed, operated and/or controlled the 2015 Volvo Tractor Unit, VIN 4V4NC9EH2FN179660, registered in Ontario Canada with plate 207 7PP, (hereafter "TRACTOR UNIT") and/or its trailer, and/or employed, Defendant driver, SERGUEI BIBIKOV, on November 18, 2017.

12. At all times material hereto, Defendants HL MOTOR GROUP, INC., HIGHLIGHT MOTOR FREIGHT USA, INC., and/or JOHN DOE EMPLOYERS/OWNERS 1-5 acted or failed to act individually or through its agents, servants, workmen and/or employees who were then and there acting within the course and scope of their employment with said Defendant and in furtherance of said Defendant's business.

13. In the alternative, at all times material hereto, Defendants HL MOTOR GROUP, INC., HIGHLIGHT MOTOR FREIGHT USA, INC., and/or JOHN DOE EMPLOYERS/OWNERS 1-5 acted or failed to act as an agent, servant, workman and/or employee of all other Co-Defendants, who was then and there acting within the course and scope of its employment with said Co-Defendant(s) and in furtherance of the business of said Co-Defendant(s).

14. At all times material to this Civil Action, Defendant, SERGUEI BIBIKOV, acted or failed to act individually or through his agents, servants, workmen and/or employees who were then and there acting within the course and scope of their employment with said Defendant and in furtherance of said Defendant's business.

15. In the alternative, at all times material to this Civil Action, Defendant, SERGUEI BIBIKOV, acted or failed to act as an agent, servant, workman and/or employee of all other Co-Defendants, including currently unknown JOHN DOE EMPLOYERS/OWNERS 1-5, who was then and there acting within the course and scope of his employment with said Co-Defendant(s)

and in furtherance of the business of said Co-Defendant(s).

16. Defendants, SERGUEI BIBIKOV, ELEMENT FLEET CORPORATION, ELEMENT FLEET MANAGEMENT CORP., ECN FINANCIAL LLC formerly doing business as ELEMENT FINANCIAL CORP, ELEMENT FINANCIAL CORPORATION, HL MOTOR GROUP, INC., HIGHLIGHT MOTOR FREIGHT USA, INC. and/or JOHN DOE EMPLOYERS/OWNERS 1-5, shall hereinafter be collectively referred to as the “DEFENDANTS.”

17. Upon information and belief, at all times set forth herein, one or more of the named DEFENDANTS, including but not limited to HL MOTOR GROUP, INC. and HIGHLIGHT MOTOR FREIGHT USA, INC. and ELEMENT FLEET MANAGEMENT CORP., has regularly conducted business in the Commonwealth of Pennsylvania and more specifically in the County and City of Philadelphia.

18. On or about November 18, 2017, at approximately 3:45 P.M., Plaintiff, ALEX MELLOW, possessed, operated and controlled a certain motor vehicle that was involved in the accident hereinafter more fully set forth.

19. On the aforesaid date and time, Defendant, SERGUEI BIBIKOV, acting as aforesaid, possessed, owned, operated, and/or controlled the TRACTOR UNIT and/or its trailer that was involved in the accident hereinafter more fully set forth.

20. On the aforesaid date and time, ELEMENT DEFENDANTS, acting as aforesaid, possessed, owned, operated and/or controlled, through their agent servant workman, and or employee, SERGUEI BIBIKOV, the TRACTOR UNIT and/or its trailer that was involved in the accident hereinafter more fully set forth.

21. On the aforesaid date and time, Defendants, HL MOTOR GROUP, INC.,

HIGHLIGHT MOTOR FREIGHT USA, INC. and/or JOHN DOE EMPLOYERS/OWNERS 1-5 acting as aforesaid, possessed, owned, operated and/or controlled, through their agent servant workman, and/or employee, SERGUEI BIBIKOV, the TRACTOR UNIT and/or its trailer that was involved in the accident hereinafter more fully set forth.

22. On the aforesaid date and time, Plaintiff, ALEX MELLOW, was traveling northbound on I-476, the Pennsylvania Turnpike at or near the Keyser Avenue Interchange, a public highway in Lackawanna County, Commonwealth of Pennsylvania.

23. On the aforesaid date and time, the tractor unit and trailer operated by Defendant, SERGUEI BIBIKOV, was also traveling northbound on I-476, the Pennsylvania Turnpike at or near the Keyser Avenue Interchange when Defendant was so careless and negligent, that Defendant suddenly and without warning struck the rear of Plaintiff's vehicle. As a result of said impact, Plaintiff, ALEX MELLOW, sustained serious personal injuries hereinafter more specifically set forth.

24. At the time and place aforesaid, the carelessness and negligence of the Defendants, acting as aforesaid, consisted of the following:

- (a) Operating the said tractor unit with trailer at a high and excessive rate of speed under the circumstances;
- (b) Failing to have the said vehicle under proper and adequate control;
- (c) Failing to give proper and sufficient notice of his approach;
- (d) Operating the said vehicle without due regard for the rights, safety and position of the Plaintiff;
- (e) Violating the various ordinances and the laws of the County of Lackawanna, the statutes and regulations of the Commonwealth of Pennsylvania, and statutes and regulations of the United States pertaining to the operation and control of the TRACTOR UNIT and interstate trucking;
- (f) Failing to exercise due care and caution under the circumstances;

- (g) Being inattentive;
- (h) Failing to keep an assured clear distance from the vehicles ahead;
- (i) Being in violation of PA Motor Vehicle Code Title 75 § 3310 (Following too closely);
- (j) Being in violation of PA Motor Vehicle Code Title 75 § 3361 (Driving vehicle at safe speed); and
- (k) Being in violation of PA Motor Vehicle Code Title 75 § 3714 (Careless driving).

COUNT I
ALEX MELLOW v. DEFENDANTS
(Negligence)

25. Plaintiff, ALEX MELLOW, incorporates herein by reference the averments contained in paragraphs 1 through 25 inclusive, as fully as though the same were herein set forth at length.

26. As a direct result of the carelessness and negligence of the Defendants, as aforesaid, Plaintiff, ALEX MELLOW, sustained severe and permanent internal and external injuries in and about his body and limbs, including but not limited to: cervical, thoracic and lumbar sprains and strains; As confirmed by MRI: 3 mm broad based disc protrusion eccentric to the left compromising the left neural foramen; At L2-3 a 1.5 mm disc protrusion eccentric to the left at L2-3; L3-4 there is 2 mm broad based disc protrusion somewhat eccentric to the left; L4-5 there is 2.5 mm midline/left paramedian disc protrusion; L5-S1 there is disc degeneration with broad disc protrusion and marginal osteophytosis clearly eccentric toward the left neural foramen with some cranial subligamentous extension; a 2.5 mm anterolisthesis of L5 upon S1; disc bulging at C3-4 more in the midline at C4-5 more toward the left neural foramen; C5-6 there is disc degeneration with loss of disc signal and disc height; diffuse bilateral intraforaminal disc herniation more on the

left; shallow disc bulging at a C7-T1; Median nerve dysfunction at the wrists bilaterally, left greater than right with symptomatic traumatic carpal tunnel syndrome on the left, confirmed by EMG, all of which have caused and will continue to cause great pain and agony and have prevented and will continue to prevent in the future from attending to daily duties and occupation, all to his great financial damage and loss.

27. Further, by reason of the aforesaid, Plaintiff, ALEX MELLOW, has been obliged to expend various sums of money for medicine and medical attention in and about endeavoring to treat and cure himself of said injuries, and will be obliged to expend additional sums of money for the same purposes in the future, all to his great damage and loss.

28. As a result of the accident and the injuries sustained therein, Plaintiff, ALEX MELLOW, has and may suffer an impairment of his earning capacity and power, which impairment of earning capacity and power has or may exceed the sum recoverable under the limitations of the Pennsylvania Motor Vehicle Financial Responsibility Law.

29. As a direct result of the aforesaid accident, Plaintiff, ALEX MELLOW, has and will hereinafter incur additional financial and/or medical expenses or losses which will exceed amounts, which he may otherwise be entitled to recover under the Pennsylvania Motor Vehicle Financial Responsibility Law.

WHEREFORE, Plaintiffs, ALEX MELLOW and POLINA MELLOW, demand judgment against all DEFENDANTS in an amount in excess of Fifty Thousand (\$50,000.00) Dollars, plus interest and costs.

COUNT II
ALEX MELLOW v. ALL DEFENDANTS
(Negligent Entrustment)

30. Plaintiff, ALEX MELLOW, incorporates herein by reference the averments contained in paragraphs 1 through 30 inclusive, as fully as though the same were herein set forth at length.

31. At all times material to this Civil Action, DEFENDANTS, acted negligently, carelessly and in a reckless disregard for the safety of Plaintiff, ALEX MELLOW, which conduct proximately caused the Plaintiff's serious and permanent personal injuries as described above.

32. The acts of DEFENDANTS, constituting negligence and carelessness are as follows:

- (a) Entrusting a motor vehicle to Defendant, SERGUEI BIBIKOV's care, custody and operation;
- (b) Failing to take reasonable precautions to prevent Defendant, SERGUEI BIBIKOV, from driving the TRACTOR UNIT with trailer at a time when Defendants knew or should have known that Defendant, SERGUEI BIBIKOV, was incapable of operating said TRACTOR UNIT safely; and
- (c) Failing to take reasonable precautions to prevent Defendant, SERGUEI BIBIKOV, from driving the TRACTOR UNIT with trailer at a time when Defendants knew or should have known of the repeated unsafe, negligent course of conduct of Defendant, SERGUEI BIBIKOV, which conduct would create an unreasonable risk of harm to others.

33. As a direct and proximate result of DEFENDANTS' negligence and carelessness as described above, Plaintiff, ALEX MELLOW, was caused to suffer severe and permanent personal injuries as more fully described above.

WHEREFORE, Plaintiffs, ALEX MELLOW and POLINA MELLOW, demand judgment against all Defendants in an amount in excess of Fifty Thousand (\$50,000.00) Dollars, plus interest

and costs.

COUNT III
POLINA MELLOW v. DEFENDANTS
(Loss of Consortium)

34. Plaintiffs incorporate by reference the preceding allegations as if set forth at length herein.

35. Plaintiff, POLINA MELLOW, is the wife of the injured Plaintiff, ALEX MELLOW, and is dependent upon him for services, society and companionship. Plaintiff, POLINA MELLOW, brings this cause of action and claim for relief, individually, for loss of services, companionship, aid, society, support, nurture, comfort, assistance, consortium and care of her husband as provided by law.

36. Due to carelessness and negligence of the DEFENDANTS, which directly and proximately caused the alleged injuries to Plaintiff, ALEX MELLOW, Plaintiff, POLINA MELLOW, in her own right, has been and continues to be deprived of the care, society, nurture, aid, companionship and consortium of her husband, all to her damage and detriment in a sum to be determined by the proof provided.

37. Due to carelessness and negligence of the DEFENDANTS, who directly and proximately caused the alleged injuries to the Plaintiff, ALEX MELLOW, Plaintiff, POLINA MELLOW, has been in the past and will be in the future required to expend large sums of money for the medical care and treatment of her husband.

WHEREFORE, Plaintiffs, ALEX MELLOW and POLINA MELLOW, demand judgment against all DEFENDANTS in an amount in excess of Fifty Thousand (\$50,000.00) Dollars, plus interest and costs.

HOFFMAN, STERNBERG, KARPf & LYNCH, LLC

A handwritten signature in black ink, appearing to read 'David Shafie', is written over a horizontal line.


DAVID A. SHAFIE, ESQUIRE
Attorney for Plaintiffs

Date:

11-13-19

VERIFICATION

I, ALEX MELLOW, verify that the statements made in this pleading are true and correct to the best of my knowledge, information and belief. I understand that false statements herein are made subject to the penalties of 18 Pa.C.S.A. § 4904, relating to unsworn falsifications to authorities.



ALEX MELLOW

11.13.19
Date

I, POLINA MELLOW, verify that the statements made in this pleading are true and correct to the best of my knowledge, information and belief. I understand that false statements herein are made subject to the penalties of 18 Pa.C.S.A. § 4904, relating to unsworn falsifications to authorities.



POLINA MELLOW

11.13.19
Date

4. I am also familiar with the corporate entity known as Highlight Motor Freight USA, Inc. (“Highlight USA”), which is a New Jersey corporation affiliated with but entirely separate and distinct from Highlight.

5. I have reviewed the Complaint in this matter, which generally alleged that Alex Mellow and Polina Mellow suffered personal injuries resulting from a November 18, 2017 motor vehicle collision in Philadelphia, Pennsylvania with a “Tractor Unit” operated by Serguei Bibikov and “possessed, owned, operated and/or controlled by” Highlight and Highlight USA.

6. On November 18, 2017, while engaged in the activity described in the Complaint in this matter, Serguei Bibikov was an employee of Highlight.

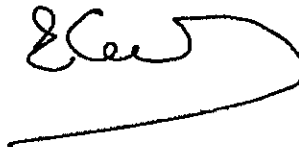
7. Mr. Bibikov has never been an employee, agent, servant, workman or in any way provided services on behalf of Highlight USA.

8. I reviewed Highlight’s records and found that while operating the “Tractor Unit” in question during the November 18, 2017 motor vehicle accident described in the Plaintiff’s Complaint, Serguei Bibikov was transporting a load that originated from Mount Laurel, NJ and delivered to Etobicoke, Ontario.

9. I also reviewed Highlight’s records and found that the “Tractor Unit” operated by Serguei Bibikov at the time of the November 18, 2017 motor vehicle accident described in the Plaintiff’s Complaint, was owned by Element Financial Corporation and leased by that company to Highlight.

10. Element Financial Corporation, an Ontario, Canada corporation.

11. Other than doing business with one another, Element Financial Corporation is not a subsidiary, division or parent company, or in any way affiliated with Highlight.

A handwritten signature in black ink, appearing to read 'KS', with a long horizontal line extending to the right from the end of the signature.

Kate Savinkova